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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,649	03/15/2004	Martin Wyeth	3011-1004	8527

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EXAMINER

WONG, STEVEN B

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 05/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/799,649	Applicant(s) WYETH, MARTIN	
	Examiner Steven Wong	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-15-04; 10-6-04</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 7, the language describing the funnel is unclear. The claim recites the "side walls diverging in width from the inlet end to the outlet end". This language appears to indicate that both side wall (12) and side wall (13) increase in width or thickness as they extend down the ramp. However, Figure 1 clearly shows that this is not the case. Further, page 3 of the specification states that the side wall (12) diverges relative to the side wall (13) in a downwards direction.

In claim 2, the language "is in use" is indefinite as the claim fails to define any structure associated with the funnel or feeder which defines its use.

In claim 3, the language "it" and "first mentioned ramp" do not clearly refer to the structure of the device. Further, the language "in which it can to" is inapt.

In claim 6, the "tee shield" is not positively recited in the claim.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The structure that feeds balls one at a time to a golf tee at a golf driving

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range is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The preamble of claim 1 recites a ball feeder, however, the body of the claim only recites the funnel structure. The specification defines the ball feeder as a device that is capable of feeding balls one at a time to a golf tee at a golf driving range. The funnel by itself is incapable of accomplishing this purpose.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Koener (2,948,536). Regarding claim 1, Koener discloses a funnel (4) having a ball inlet end and a ball outlet end and opposing side walls (81). Note column 5, lines 15 and 16 stating that the sidewalls are flared. Thus, Koener teaches increasing thickness for the sidewalls as they extend along the funnel. The funnel of Koener is inherently of being used in an inclined position where the sidewall diverge in width from an inlet end to an outlet end.

Regarding claim 2, the funnel of is inherently capable of being used with at least a 4° incline to the horizontal.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung (4,602,789) in view of Turnidge et al. (5,071,131). Regarding claims 1 and 3, Chung discloses a golf ball teeing apparatus comprising a scoop (106) that receives a transverse row of balls from a tray (92) and means for raising the scoop to deliver golf balls to a tee. The tray of Chung provides a plurality of storage racks (98) for delivering the golf balls. However, Chung lacks the teaching for the claimed funnel.

Turnidge reveals a golf ball teeing device comprising a dispenser (37) having sidewalls that increase in width (15a, 15b) from the inlet end (24) to the outlet end. It would have been obvious to one of ordinary skill in the art to replace the tray of Chung with the dispenser of Turnidge in order to provide a simpler construction for delivering the golf balls to the scoop.

Regarding claim 2, Chung teaches for the tray to be slanted to deliver the golf balls. It would have been obvious to one of ordinary skill in the art to incline the tray of Chung as modified by Turnidge at least by 4 degrees in order to provide sufficient gravitational force on the balls.

Regarding claim 4, note column 4, line 66-68 and column 6, line 22 through column 7, line 16 of Chung teaching that the means for raising the scoop also raises the tee.

Regarding claim 5, note column 6, lines 31-45 stating that lever (150), second lever (194) and third lever (196) are actuated to move ball raising device (54). The levers are seen as carriages of the device. Chung also provides a button (24) that is power operated for raising and lowering the carriage.

Regarding claim 6, Chung provides the ball raising device or injector (54) that is movable by the carriage to collect a ball raised by the scoop and delivers the ball to the tee shield (44) when the tee is in the lowered condition.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chung (4,602,789) in view of Turnidge et al. (5,071,131) and Kruger (5,351,964). Kruger discloses that it is well known in the art of golf ball teeing devices to provide photosensors in order to have the device automatically sense when there is no ball on the tee and then actuate the device. It would have been obvious to one of ordinary skill in the art to provide the device of Chung as modified by Turnidge with photosensors in order to allow the device to automatically tee golf balls.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Wednesday 7am-5:30pm.

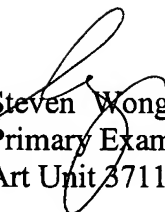
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Steven Wong
Primary Examiner
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SBW

May 22, 2006